



J MARK HOLLAND & ASSOCIATES
3 CIVIC PLAZA SUITE 210
NEWPORT BEACH CA 92660

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OFFICE OF PETITIONS

In re Application of
Tim P. Horwood
Application No. 10/606,605
Filed: June 26, 2003
Attorney Docket No. HORWOOD.001C2

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: DECISION GRANTING PETITION
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This is a decision on the petition filed under 37 CFR 1.183 on December 6, 2004 to allow the petitioner to proceed with prosecution of the application without the signature of an inventor.

The petition is **GRANTED**.

The regulations require the signatures of all inventors of an application not being prosecuted by a registered practitioner, on all correspondences filed with the Office. In response to the Restriction Requirement mailed March 19, 2004, petitioner filed an election September 20, 2004 with a five month extension of time request, signed only by joint inventor and assignee Tim P. Horwood, however without the signature of joint inventor Keith W. Lovell. See 37.CFR 1.33 and M.P.E.P 403.

The facts presented on petition indicate that joint inventor John F. Pope assigned all right, title and interest in the instant patent application to joint inventor Tim P. Horwood, that the Attorney of Record withdrew as counsel and that joint inventors Tim P. Horwood and Keith W. Lovell have not been successful at reaching an agreement as to the prosecution of the instant application.

37 CFR 1.183 provides that, "In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, sua sponte, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in Section 1.17(f).

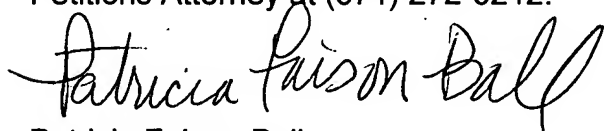
Based on petitioners' assertions that the petitioner, an inventor and assignee of one half interest in the above-identified application, has diligently sought cooperation from Keith W. Lovell, the second named inventor, in the prosecution of the instant application, but without success, it is determined therefore, for purposes of this decision only, that justice requires a waiver of the rules. In this instance, continued prosecution

of the application should not be jeopardized because of the infighting of the principals and neither should any one of the principals be injured because of the refusal of the other principal.

With respect to the petition fee, please be advised that effective November 22, 2004, the petition fee has been increased to \$400.00. Therein, deposit account no. 08-2624 has been charged in the amount of \$270.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(f). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

The application is being forwarded to Technology Center 3751 for further examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions